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**FILED**

**JUN 10 2005**

**SECRETARY, BOARD OF  
OIL, GAS & MINING**

**BEFORE THE BOARD OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

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IN THE MATTER OF THE PETITION	:	NOTICE OF AGENCY ACTION
BY THE DIVISION OF OIL, GAS AND	:	
MINING FOR AN ORDER	:	
REQUESTING THE ATTORNEY	:	DOCKET NO. <u>2005-012</u>
GENERAL TO RECOVER, IN	:	
DISTRICT COURT, CIVIL PENALTIES	:	
OWED BY ROCK-IT STONE WORKS;	:	FILE NO. S/013/008
STRAWBERRY RIVER QUARRY,	:	
DUCHESNE COUNTY, UTAH.	:	
	:	

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The Division of Oil, Gas and Mining ("Division") hereby petitions the Board of Oil, Gas and Mining ("Board") for an Order requesting the Office of the Attorney General to bring an action in any appropriate district court of the state to recover civil penalties owed by Rock-It Stone Works, L.L.C., operator of the Strawberry River Quarry. The mine is located in portions of the SW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub> and the NW<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub> of Section 16, Range 7 West, Township 4 South, SLBM, Duchesne County, Utah.

**JURISDICTION**

1. This action is brought by the Division pursuant to the Utah Mined Land Reclamation Act, Utah Code Ann. §§ 40-8-1 *et seq.* (2005).
2. Jurisdiction over this matter is conferred upon the Board by Utah Code Ann. § 40-8-6 (2005).
3. Recovery of civil penalties is pursuant to Utah Code Ann. § 40-8-9.1 (4) (2005).

### NOTICE REQUIREMENTS

4. Pursuant to Utah Code Ann. §§ 63-46b-6 to 63-46b-11 (2005), the hearing will be conducted formally.
5. The hearing will be held on July 27, 2005 at 10:00 a.m., or as soon thereafter as possible, in the Board Room of the Department of Natural Resources, 1594 West North Temple, Suite 1050, Salt Lake City, Utah.
6. A written response must be filed with the Board within 20 days of the date of mailing of this Notice of Agency Action. Any party who fails to respond, or to appear at said hearing, may be held in default.
7. The names and addresses of all persons to whom the Notice of Agency Action shall be given are attached as the Certificate of Service and by this reference incorporated herein.

### STATEMENT OF FACTS

8. Rock-It Stone Works is the operator of record of the Strawberry River Quarry located in portions of the SW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub> and the NW<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub> of Section 16, Range 7 West, Township 4 South, SLBM, Duchesne County, Utah.
9. On September 10, 2004, the Division issued to Rock-It Stone Works Cessation Order MC-2004-03-01-0. Both parts of this cessation order were later abated and terminated. Penalty assessments associated with this cessation order, totaling \$3960.00, were mailed to Mr. Shannon Peatross, Rock-It Stone Works, by certified mail on October 8, 2004. This letter was returned by the Postal Service as unclaimed after its last delivery attempt on October 24, 2004.

10. On November 16, 2004, the Division faxed the penalty assessments to Mr. Peatross and re-sent them via first class mail. The Division staff also telephoned and informed Mr. Peatross that payment of the assessments was due by November 23, 2004, thirty days from the last delivery attempt by the Postal Service. Division staff notified Mr. Peatross that, in the alternative, he could appeal the penalty assessments by the same date, November 23, 2004, in accordance with Utah Administrative Code R647-7-105 and R647-7-106.
11. Mr. Peatross and Rock-It Stone Works did not make payment of the assessments nor appeal the fact of the cessation order. The deadline for appealing either the assessments or the fact of the cessation orders has long since expired.
12. On May 24, 2005, counsel for the Division sent, via certified mail, first class mail and fax, a letter to Mr. Peatross notifying him that payment of the aforementioned penalty assessments was due. The letter also informed Mr. Peatross that the Division would file this Notice of Agency Action if Rock-It Stone Works did not pay the assessments it owed.
13. As of the date of this Notice of Agency Action, the Division has not received payment from, nor had any contact with Rock-It Stone Works or its employees.

**PRAYER FOR RELIEF**

WHEREFORE, the Division requests that the Board enter an Order requesting the attorney general of Utah to bring an action in any appropriate district court of the state to recover civil penalties owed by Rock-It Stone Works.

DATED this 10<sup>th</sup> day of June, 2005.



Mary Ann Wright, Associate Director  
On behalf of John R. Baza, Director  
Division of Oil, Gas and Mining  
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**CERTIFICATE OF MAILING**

I hereby certify that I caused a true and correct copy of the foregoing Notice of Agency Action to be mailed, postage pre-paid, on the 10<sup>th</sup> day of June, 2005, to the following:

CERTIFIED MAIL  
7099 3400 0016 8894 0565  
Mr. Shannon Peatross  
Rock-It Stone Works  
924 West Hicken Court  
P.O. Box 538  
Heber City, Utah 84032-0538  
(also by first class mail)

Michael S. Johnson  
Assistant Attorney General  
Utah Board of Oil, Gas & Mining  
1594 West North Temple, Suite 300  
Salt Lake City, Utah 84116  
(Hand Delivered)

Stephen Schwendiman  
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Utah Board of Oil, Gas & Mining  
160 East 300 South, 5<sup>th</sup> Floor  
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